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Human rights questions: implementation of human rights instruments

Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Report of the Secretary-General**

1. By resolution 53/138 of 9 December 1998, the General Assembly requested the Secretary-General to report to it at its fifty-fifth session on measures taken to implement that resolution, on obstacles to its implementation and on measures taken or planned to ensure financing and adequate staff and information resources for the effective operation of the human rights treaty bodies. By the same resolution, the Assembly decided to continue to give priority consideration at its fifty-fifth session to the conclusions and recommendations of the meetings of persons chairing human rights treaty bodies, in the light of the deliberations of the Commission on Human Rights, under the item entitled "Human rights questions".

2. The present report was prepared pursuant to the above-mentioned resolution, and contains updated information to that contained in the report submitted by the Secretary-General to the Commission on Human Rights at its fifty-sixth session (E/CN.4/2000/106), which was prepared pursuant to Commission resolution 1998/27 of 17 April 1998,[1] and should be read together with that report. The present report does not contain information on the Convention on the Elimination of All Forms of Discrimination against Women which is the subject of the separate report requested by the General Assembly in its resolution 54/137 of 17 December 1999. That report is before the General Assembly in document A/55/308.

Commission on Human Rights

3. At its fifty-sixth session, the Commission on Human Rights examined the question of the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, and, on 26 April 2000, adopted resolution 2000/75 on this question.[2] It will consider the question again at its fifty-eighth session.

Meetings of persons chairing human rights treaty bodies

4. Persons chairing human rights treaty bodies held their eleventh and twelfth meetings at Geneva, from 1 to 5 June 1999 and 5 to 8 June 2000, respectively. The

* A/55/150.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 9 August 2000 so as to include as much updated information as possible.

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reports on those meetings are contained in the annex to document A/54/805 and in document A/55/206.

5. Many of the subjects raised by the General Assembly in resolution 53/138 were dealt with at those meetings, including: developments in respect of the plans of action for strengthening support to the treaty bodies; the large backlog of reports awaiting examination before several treaty bodies; the large numbers of overdue reports by States parties; the imbalance in the payment of honorariums to treaty body experts; cooperation with United Nations departments, funds and programmes and specialized agencies; and cooperation with the special rapporteurs and special representatives, experts and working groups of the special procedures framework of the Commission on Human Rights and of the advisory services programme. Information on these matters are contained in the background documents prepared on the follow-up to each meeting (e.g., see HRI/MC/1999/3 and HRI/MC/2000/3).

6. In paragraph 13 of resolution 53/138, the General Assembly welcomed the initiative undertaken by the persons chairing the human rights treaty bodies of inviting representatives of Member States to participate in a dialogue within the framework of their periodic meetings, and encouraged them to continue this practice in the future. At their eleventh and twelfth meetings, a fruitful half-day discussion was held with representatives of States. During the joint discussion at the twelfth meeting, it was decided that the subsequent joint meeting should be of a full day's duration.

Materials on the work of the treaty bodies

7. In accordance with paragraph 18 of resolution 53/138, a compilation in a single volume has been prepared of all the general guidelines regarding the form and content of reports to be submitted by States parties that have been issued by the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child and the Committee against Torture (HRI/GEN/2). Other documents recently issued include an updated compilation of the general comments issued on general recommendations adopted by the treaty bodies (HRI/GEN/1/Rev.4) and a document summarizing the recent reporting history of all States parties to the human rights treaties (HRI/GEN/4). These compilations were issued for the twelfth meeting of persons chairing human rights treaty bodies and, soon after that meeting, were transmitted to all Member States.

Report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty monitoring system

8. In paragraph 4 of resolution 53/138, the Secretary-General was invited to continue to solicit the views of Governments, United Nations bodies, the specialized agencies, non-governmental organizations and interested persons on the final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty monitoring system and to submit a further report thereon, including his own views on the legal, administrative and other implications of the recommendations made in the report. In paragraph 6 of its resolution 1998/27, the Commission on Human Rights also requested the Secretary-General to undertake such a consultation and to report thereon to the Commission at its fifty-sixth session in March 2000. The Secretary-General undertook this consultation in October 1999 and submitted his report to the Commission on Human Rights (E/CN.4/2000/98 and Add.1). That report will be made available to the General Assembly.

Analytical study comparing the provisions of the six principal international human rights treaties

9. The General Assembly, in paragraph 14 of its resolution 53/138, called upon the Secretary-General to complete as soon as possible the detailed analytical study comparing the provisions of the six principal international human rights treaties.[3] That study is currently being prepared by independent researchers, with the support of the Office of the United Nations High Commissioner for Human Rights, as one component of a more comprehensive review of the treaty monitoring system.

Payment of honorariums

10. The question of the payment of honorariums to the members of the human rights treaty bodies was discussed in a report submitted to the General Assembly at its fifty-third session in the context of a review of the overall system of honorariums to United Nations bodies (see A/53/643). In paragraph 29 of resolution 53/138, the Assembly took note of the discussion of the payment of honorariums to the members of the human rights treaty bodies included in the report of the Secretary-General on the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (A/53/469), and of other work being done by the Secretary-General on this subject.

11. The basic principle governing the payment of honorariums, enunciated by the General Assembly in its resolution 2489 (XXIII) of 21 December 1968 and reaffirmed in its resolutions 3536 (XXX) of 17 December 1975 and 35/218 of 17 December 1980, is that neither a fee nor any other remuneration in addition to subsistence allowances at the standard rate would normally be paid to members of organs or subsidiary organs unless expressly decided upon by the Assembly.

12. At present, the members of three of the human rights treaty bodies receive honorariums and the members of the others do not. Payment of honorariums was approved by the General Assembly to members of the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child (resolutions 32/212 of 21 December 1977, 36/240 A of 18 December 1981 and resolution 44/201 A of 21 December 1989, respectively).

13. Subsequently, the General Assembly, by its resolution 47/111 of 16 December 1992, endorsed amendments to the treaties monitored by the Committee on the Elimination of Racial Discrimination and the Committee against Torture, in accordance with which members of those Committees would henceforth receive emoluments from United Nations resources on such terms and conditions as might be decided by the Assembly.

14. The proposed amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted at the fourteenth meeting of States parties on 15 January 1992, called for members of the Committee established under the Convention to receive, with the approval of the General Assembly, emoluments from United Nations resources on such terms and conditions as the Assembly might decide. The amendment is to enter into force when it has been approved by the Assembly and accepted by a two-thirds majority of States parties which shall have so notified the Secretary-General. As at 25 July 2000, 27 States parties to the Convention had accepted the amendment, a number significantly short of the two-thirds majority required for the amendment to enter into force.

15. The Conference of States Parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment decided, on 9 September 1992, to amend article 18 of that Convention so as to enable members of the Committee against Torture to receive emoluments from the United Nations resources on such terms and conditions as the General Assembly would decide. The amendment is to become operative when it has been accepted by two thirds of the States parties to the Convention which shall have so notified the Secretary-General, and on the understanding that the proposed amendments would become operative only when the General Assembly had taken appropriate action. As at 25 July 2000, only 23 States parties had accepted the amendment.

16. In addition, the Economic and Social Council, in its decision 1993/297 of 28 July 1993, endorsed the recommendation that members of the Committee on Economic, Social and Cultural Rights should be paid honorariums equivalent to those payable to the members of other relevant treaty bodies and, in its decision 1995/302 of 25 July 1995, it urged the General Assembly to give speedy attention to this matter.

Ensuring adequate financing, staff and information resources for the operations of the human rights treaty bodies

17. In paragraph 6 of resolution 53/138, the General Assembly reiterated its request that the Secretary-General provide adequate resources in respect of each human rights treaty body and called upon him to make the most efficient use of existing resources and to seek

the resources necessary to give the treaty bodies adequate administrative support and better access to technical expertise and relevant information, and to seek, in the subsequent biennium, the resources within the United Nations regular budget necessary to give the treaty bodies such support and access without diverting resources from the development programmes and activities of the United Nations. In paragraph 7 of the same resolution, the Assembly took note with appreciation of the revised plan of action to strengthen the implementation of the Convention on the Rights of the Child and the plan of action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights, recalled the importance of administering those plans in accordance with established United Nations procedures, welcomed the information provided by the Secretary-General on the implementation of those plans, and requested him to include in his report prepared pursuant to that resolution further information in that regard. Further, in paragraph 8, the Assembly noted with interest the work being done by the High Commissioner for Human Rights on a plan of action to enhance the resources available to all human rights treaty bodies.

18. The Secretary-General has sought additional resources in the programme budget for the biennium 2000-2001. Two new posts have been approved within the servicing unit for the Geneva-based treaty bodies in the Office of the High Commissioner, one to deal with the complaints procedures and the other to engage in follow-up to the recommendations and views. The recruitment process for these posts has commenced.

19. It is envisaged that further increases in resources would be sought for the biennium 2002-2003, in line with the high levels of ratification of the human rights treaties and the additional workload created by the entry into force of new instruments which, in view of the number of signatures and ratifications, is imminent, in particular with regard to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocols to the Convention on the Rights of the Child related to the involvement of children in armed conflict and the sale of children, child prostitution and child pornography.

20. Additional resources for the treaty bodies are also sought through the annual appeal of the High Commissioner for Human Rights for extrabudgetary contributions for the United Nations human rights programme. The main components of the various plans of action for the treaty bodies were incorporated into the annual appeal. The level of contributions indicates a high level of interest in treaty body projects on the part of donors but, as at 31 July, is nevertheless insufficient to carry out fully stated objectives.

21. In implementing treaty body projects, priority has been placed on continuing the service of staff members that had been recruited through the plans of action for the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights. In addition, the recruitment of personnel to assist in dealing with individual complaints submitted under the individual complaints mechanisms administered by the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture has commenced, among the principal objectives of which is to help reduce the large backlog of communications that is before the Human Rights Committee. The third major area of progress is in relation to information technology. Through the annual appeal, sufficient funds have been received, inter alia, to enable work to begin or continue on a communications database; on the development of an external partners database which would maintain information on non-governmental organizations, human rights institutions etc.; on improving the user-friendliness of the treaty bodies database, and on the further integration of treaty body information with that of the other human rights mechanisms. The development of an external partners database is in line with paragraph 27 of resolution 53/138, in which the General Assembly recognized the important role played by non-governmental organizations in all parts of the world in the effective implementation of all human rights instruments, and encouraged the exchange of information between the human rights treaty bodies and such organizations.

22. Finally, the annual appeal is enabling the treaty bodies to take concrete steps towards achieving cooperation and harmonization in some aspects of their work. Towards this end, it is foreseen that working-level meetings among representatives of all treaty bodies will take place when all treaty bodies have had an opportunity to consider a possible agenda and expected outcome. Persons chairing the treaty bodies, at their twelfth meeting, suggested that the first such

meeting be dedicated to the topic of periodicity of reporting.

Number of reports awaiting examination and number of overdue reports

23. In paragraphs 19 and 20 of resolution 53/138, the General Assembly reiterated its concern about the increasing backlog of reports on the implementation by States parties of certain United Nations instruments on human rights and about delays in consideration of reports by the treaty bodies and about the large number of overdue reports under the United Nations instruments on human rights.

24. The growing large backlog of reports awaiting examination by treaty bodies continues to pose a serious problem. The problem is particularly acute for the Committee on the Rights of the Child, which was already among the treaty bodies facing a great backlog when the optional protocols to the Convention on the Rights of the Child were adopted, which added to the reporting responsibilities to States parties. In an effort to address this grave problem, the Committee took a major step at its twenty-second session, held in September/October 1999, in deciding that it would henceforth consider nine reports of States parties at each session, in contrast to the average five or six reports examined at each session until that time. The Committee has undertaken to follow this procedure as from its first session in 2000.

25. To help it deal with its large backlog of reports, the Committee on Economic, Social and Cultural Rights has been authorized by the General Assembly in section IV of resolution 54/251 of 23 December 1999 to hold two extraordinary sessions for the purpose of examining reports of States parties. One session is to be held in 2000 and the second in 2001, each is of three-weeks' duration and is to be held in conjunction with a pre-sessional working group of one week's duration. Seven reports are scheduled to be examined at the first of these sessions, which is to be convened in August 2000.

26. In addition, the regular meeting time allotted to the Committee against Torture has been expanded by one week each year to enable the Committee better to cope with the increase in its workload arising from the growing numbers of individual communications and activities under article 20 of the Convention against Torture.

27. By its resolution 51/68 of 12 December 1996, the General Assembly approved, for an interim period starting in 1997, a request made by the Committee and supported by the States parties to the Convention for additional meeting time so as to allow the Committee to hold two sessions annually, each of three weeks' duration, preceded by a pre-sessional working group. That approval was granted pending the ratification of the amendment to article 20, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women by two thirds of the States parties to the Convention which would authorize the convening of two regular sessions each year. As at 25 July 2000, only 23 States parties had ratified the amendment. While the additional meeting time has helped the Committee considerably in reducing the backlog of reports awaiting examination and in carrying out its other functions, it is possible that, in the long term, much of this time may be needed to deal with workload created by the entry into force of the complaints mechanisms provided for in the Optional Protocol to the Convention.

28. At the same time, the total number of overdue reports of States parties continues to rise. In March 2000, there were over 1,200 reports due under the various treaties that had not been submitted (see HRI/MC/2000/2). The Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights address the problem of non-reporting by reviewing the situation of the State party in the absence of a report.[4] The growing seriousness of this problem is leading other treaty bodies to consider the possible proactive measures that they could take to encourage timely reporting by States parties. An active discussion of this issue is taking place, in particular, within the Human Rights Committee.[5] At its twenty-third session in June 2000, the Committee on the Elimination of Discrimination against Women decided, partly in response to the need to encourage non-reporting States parties to begin or resume their dialogue with the Committee, to accept multiple reports in a single submission, on an exceptional basis and as a temporary measure. This is the established practice of the Committee on the Elimination of Racial Discrimination with respect to all overdue reports. The Committee against Torture and the Committee on the Rights of the Child also accept

single submissions but for a limited number of reports, normally two.

29. It may be noted that this issue is closely related to that of periodicity of reporting which, as mentioned above, has been suggested as a topic for an inter-committee meeting.

Notes

[1] *Official Records of the Economic and Social Council, 1998, Supplement No. 3* (E/1998/23), chap. II, sect. A.

[2] Ibid., *2000, Supplement No. 3* (E/2000/23), chap. II, sect. A.

[3] International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[4] In the case of the Committee on the Elimination of Racial Discrimination, this is done on the basis of the last report submitted by the State party.

[5] For the discussion by the Human Rights Committee, see its annual report to the General Assembly, A/55/40.